

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
Plaintiff,) Case No. 8:06CR244
vs.)
ARDELLE E. DUNLAP, JR.,)
Defendant.) ORDER

This case is before the court on the Defendant's Motion to Review Detention (#82). The defendant's Petition for a Warrant for Offender Under Supervision (#67) is set for final disposition hearing on August 13, 2012.

Defendant's motion to review detention brings to the court's attention the fact that since the defendant's initial appearance on May 16, 2012, the Douglas County Attorney's Office has dismissed the defendant's state criminal charge. It appears from a review of the record that the state's case is the basis of the Petition for Warrant for Offender Under Supervision. Based upon a review of the file, including the August 22, 2006 initial appearance report and the evidence adduced at the May 17, 2012 detention hearing, I find the motion should be denied. The fact that the underlying state criminal charge has been dismissed given the lack of evidence as to the rationale for the dismissal, fails to establish the defendant's burden under 18 U.S.C. § 3143 that he, by clear and convincing evidence, is not a danger to the community.

IT IS ORDERED that Defendant's Motion to Review Detention (#82) is denied without hearing and the defendant should be detained pending the dispositional hearing currently set for August 13, 2012, or further order of the court.

Dated this 24th day of July, 2012.

BY THE COURT:

s/ F.A. Gossett, III
United States Magistrate Judge